

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel.)	
RICHARD JOHNSON A-82934,)	
)	
Petitioner,)	
)	
v.)	No. 06 C 5499
)	
NEDRA CHANDLER,)	
)	
Respondent.)	

MEMORANDUM ORDER

This Court's October 12 and October 31 memorandum orders ("Order I" and "Order II") explained why 28 U.S.C. §2254 petitioner Richard Johnson ("Johnson") had been untimely in submitting his federal habeas petition ("Petition"), so that Order II granted the motion of respondent Warden Nedra Chandler for dismissal of the Petition and this action. Now Johnson has filed a handwritten Motion for Reconsideration that, with the benefit of the "mailbox rule" established by Houston v. Lack, 487 U.S. 266 (1988), is treated as a Fed. R. Civ. P. 59(e) motion. But even if Johnson's statement as to an error in respondent's presentation of the facts is accepted, the result remains the same--dismissal.

Johnson's current motion focuses on respondent's assertion at page 2 of his Memorandum of Law that Johnson's pro se state court petition for post-conviction relief was filed on September 29, 2000, while Johnson contends (as he had originally stated in Petition Pt. II ¶1) that the correct date was June 19,

2000. But what Johnson has failed to recognize is that Opinion I at 3 had accepted the claimed June 19 date for calculation purposes, consistently with this Court's approach of viewing all matters in the manner most favorable to Johnson. And as Opinion I, id. stated:

Hence even on the assumption that all the time between that Circuit Court filing and the ultimate rejection of his state post-conviction petition on September 29, 2005 was tolled under Section 2244(d)(2), Johnson's September 29, 2006 filing of the Petition in this District Court came 1-1/2 months too late.

Accordingly nothing in Johnson's current submission calls for reconsideration. Hence his motion is denied, and the Petition and this action remain dismissed.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

Milton I. Shadur
Senior United States District Judge

Date: November 17, 2006